

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:02-CR-11-1H
No. 5:16-CV-583-H

TIMOTHY LEOTIS MCCRAY,)	
)	
Petitioner,)	
)	
v.)	
)	ORDER
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

This matter is before the court on petitioner's Notice of Withdrawal of Motion to Vacate. [DE #78].

This matter was stayed pending the resolution of United States v. Brown, 868 F.3d 297, 298 (4th Cir. 2017), reh'g en banc denied, 891 F.3d 115 (4th Cir. 2018), cert. denied, 139 S. Ct. 14 (2018). [DE #77]. Subsequent to the Supreme Court's denial of certiorari on October 15, 2018, petitioner filed the notice of Withdrawal of Motion to Vacate. [DE #78]. In light of Brown, the stay is hereby lifted.

Due to the unique procedural posture of this case and out of an abundance of caution, the court construes petitioner's filing as a motion to voluntarily dismiss his claims without prejudice pursuant to Rule 41(a)(2). There being no objection, the court

GRANTS petitioner's motion, [DE #78], and hereby DISMISSES WITHOUT PREJUDICE petitioner's claims against respondent, [DE #58]. All other pending, related motions are deemed MOOT. [DE #74]. The clerk is directed to close this case.

This 17th day of December 2018.



MALCOLM J. HOWARD
Senior United States District Judge

At Greenville, NC
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